

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 1/13/2015	(3) CONTACT/PHONE John Diodati, Department Administrator (805) 788-2832	
(4) SUBJECT Introduction of an ordinance repealing and replacing Chapter 6.48 of the County Code (Cable TV Franchises) to conform with State video franchising laws. Hearing date set for January 27, 2015. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: <div style="margin-left: 20px;"> 1. Introduce the attached ordinance, which repeals and replaces existing cable TV franchise code; and 2. Schedule a public hearing for January 27, 2015, to review and consider the attached Ordinance for adoption. </div>			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input type="checkbox"/> Board Business (Time Est. ____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW\ <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) All Districts			

Reference: 15JAN13-C-8

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
John Diodati, Department Administrator

VIA Wade Horton, Director of Public Works

DATE: 1/13/2015

SUBJECT: Introduction of an ordinance repealing and replacing Chapter 6.48 of the County Code (Cable TV Franchises) to conform with State video franchising laws. Hearing date set for January 27, 2015. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Introduce the attached ordinance, which repeals and replaces existing cable TV franchise code; and
2. Schedule a public hearing for January 27, 2015, to review and consider the attached Ordinance for adoption.

DISCUSSION

Historically, the right to operate, construct and maintain a cable system in the unincorporated areas of the County was through the issuance of a non-exclusive local franchise. Currently Charter Cable operates a cable system under a local franchise set to expire on March 1, 2015. In 2006 the State Legislature passed the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). DIVCA created a process where cable companies were able to apply for a template "State" franchise through the California Public Utilities Commission instead of local entities.

DIVCA allowed for a cable company to apply for a State franchise if one of the following three conditions were met:

1. When the local franchise expires; or
2. On a date that the cable company and local entity agree upon; or
3. When a competitor with a state franchise begins service in the local entities area.

With the local franchise expiring in March of 2015, Charter notified County staff that they would be pursuing a State franchise. In order to prepare for this change, the existing "local franchise" ordinance language must be repealed and replaced with new DIVCA language.

DIVCA provides for a local entity to preserve both their franchise fee and PEG funding (PEG = Public, Education & Government). The proposed ordinance keeps the five percent franchise fee and one percent PEG payment, which is consistent with the existing local franchise. However, Charter has asserted in other municipalities that the PEG payment is subject to approval through Proposition 26, which would require voter approval of this "fee." (See discussion below.)

Another change to franchise administration will be with the PEG channel programming. As internet and self-broadcasting opportunities have increased, the Public channel has seen limited usage. Simultaneously, the San Luis Obispo Office of Education has used their PEG funding to develop a robust educational program. Their demand for the channel has increased, and potential partnerships with Cuesta College and Cal Poly warrant a second channel. In order to accommodate these market shifts, the ordinance will transition the existing Public channel to a second Education channel. Future designation of the existing four PEG channels will be at the request of the Public Works Director or their designee.

OTHER AGENCY INVOLVEMENT/IMPACT

Staff worked with the County Office of Education and Charter on the PEG channel format and the ordinance has been reviewed by County Counsel.

FINANCIAL CONSIDERATIONS

Per existing law the transition to DIVCA should have no effect on franchise fee or PEG payments. However, if PEG payments are subject to Proposition 26, then one percent of gross sales may not be available to the County for PEG channel support. The County receives approximately \$750,000 annually for the Franchise Fee and \$150,000 annually for the PEG Fee.

The franchise fee is deposited in the County general fund while the PEG payment is held in trust and distributed for support of the Public, Education and Government channels. If Charter refuses to pay the PEG payment, the approximant \$150,000 per year could be at risk. The theory that Proposition 26 applies to PEG payments is pending an opinion of the State Attorney General.

RESULTS

Approval of the recommended action will position the County for the transition to a State franchise, which will facilitate a livable and well-governed community.

File: PEG CF 120.11.01

Reference: 15JAN13-C-8

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ATTACHMENTS

1. Ordinance
2. Strikethrough version of repealed Ordinance